

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Implementation)
of Section 621(a)(1) of the Cable)
Communications Policy Act of 1984 as) MB Docket No. 05-311
amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

COMMENTS OF CITY OF CHICO, CALIFORNIA

These Comments are filed by the City of Chico in support of the comments filed by the National League of Cities and the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NLC and NATOA, the City of Chico believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, the City of Chico wishes to inform the Commission about the facts of video franchising in our community.

Community Information

Chico is a municipal corporation with a population of 78,931. The City's franchised cable provider is Comcast Cable. The City has negotiated cable franchises since 1964.

Current Franchise

The current franchise began on May 7, 1987, and will expire on April 7, 2007. Under the statutory timeline set forth in the Federal Cable Act, the cable operator has a six-month window beginning 36 months before the expiration of the franchise in which to request a renewal under the Federal Act. As a result, at this time the City currently is in early negotiations of a franchise renewal with the incumbent provider.

The current franchise requires the cable operator to pay a franchise fee to the City in the amount of five percent of the cable operator's revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act and the City's franchise agreement. The cable operator is required to provide capacity for public, educational,

and/or governmental ("PEG") access channels on the cable system. Currently, there is one channel devoted to public access, educational access, and government access.

The current franchise requires that the cable operator support the PEG channels by the one-time provision of the necessary equipment to broadcast live meetings and events from the City Council Chambers. The City pays the cost of production services.

The franchise contains customer service obligations, by which the City is able to ensure that the cable operator is treating our residents in accordance with federal standards and the terms of the franchise.

Standards are in place for such things as maintenance of a local office, telephone answering standards, and standards for service calls. It also contains standard insurance and bonding requirements which apply to all franchise holders within the city.

The franchise requires that the cable operator provide service to all areas of the Chico community in accordance with industry standards for proximity to charged trunk lines and number of residential houses passed. There currently are parts of the community which are not serviced because low density makes provision of service economically unfeasible.

The franchise grants the cable operator access to the public rights of way and compatible easements for the purpose of providing cable television service. Apart from the franchise, the cable provider is required to obtain a permit from the appropriate municipal office before it may access the public rights of way. All utilities requiring access to the public rights of way are handled similarly. The utility submits an annual schedule of routine maintenance and an annual permit is granted. When the need arises for additional, unexpected work, a separate permit is issued on a project-by-project basis.

In order to ensure that the cable operator is in compliance with the franchise, enforcement mechanisms are in place which include the right of inspection, audits, and liquidated damages in the event of a breach of the agreement. The agreement provides ample opportunity for the service provider to clear the default prior to any damages being applied. The agreement also has a detailed appeal process.

The Franchising Process

By law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process to the extent that is economically feasible. Whether requested by the local government or offered by the cable operator, once the franchise is approved by both parties the

provisions in the franchise agreement function as contractual obligations upon both parties.

Competitive Cable Systems

The City of Chico has never been approached by a competitive provider to provide service. Chico has not denied nor hampered any provider through a number of franchise transfers, including State Radio and Television, Cook Cablevision, Chambers Cable, AT&T, and finally Comcast Cable. The Chico Municipal Code provides that all telecommunications franchises are non-exclusive and the City has procedures in place to offer the same or a comparable franchise to a competitor upon request.

Conclusions

The local cable franchising process functions well in Chico. As the above information indicates, the City of Chico is experienced at working with cable providers to see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected. For example, on three different occasions during a reconstruction of the system last year, citizens expressed concern with the placement of the vaults which hold the electrical equipment for the cable company. In each instance, although the vaults were located in the public right of way, they were visible from windows in the houses and the residents felt they were an eyesore. In each case, City staff worked with the chief Comcast Cable engineer on the project to relocate the vaults and address the citizen's concerns. This City was able to facilitate the relocation because it had a direct line to the cable company and was on top of the project. If franchising is moved to the state or federal level, or eliminated, it is unlikely that these citizens would have had an outlet to which to express their concerns or, more importantly, a voice in effecting a change which contributed to the enjoyment of their property.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community to have a voice in how local cable systems will be

implemented and what features (such as PEG access, institutional networks or local emergency alerts) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

Therefore, the City of Chico respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

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